
211 Bridge Street
Manchester, KY 40962

July 10, 2018

Marlene H. Dortch, Secretary
Federal Communications commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Appeal of a USAC Funding Decision

CC Docket No 02-6 – In the Matter of Schools and Libraries Universal Service Support Mechanism

Billed Entity Name: Clay County Public Library
Billed Entity Number: 128844
471 Number: 171042182
FRNs: 1799095586

Dear Ms. Dortch:

We are appealing to the FCC a recent Denied Revised FRN Funding Decision and a Revised Commitment Amount for an Approved Post Commitment Decision (FRN level) USAC Appeal for Clay County Public Library, BEN 128844, 471 number 171042182, FRN 1799095586.

BACKGROUND

FRN 1799095586 requests Category 2 funding for a public library. At the time the FCC Form 471 was filed, the service provider for this FRN had not yet received a SPIN and so the 471 was completed using the SLD's Interim SPIN (146666666). This is a very common practice which allows an applicant to accept a bid from a cost-effective provider that has not yet participated in the E-Rate program. It allows the applicant to complete their funding application while the service provider applies for a SPIN. During the review process for Funding Year 2017, PIA requested the correct SPIN for the service provider and we responded the next day saying the service provider was still waiting on their SPIN number from USAC, and asked the PIA reviewer for help with resolving the delayed SPIN (*see Attachment A - PIA FRN#1799095586*). The FRN was denied without further communication. The FCDL stated this denial reason: ***DR1: Applicant has not provided sufficient documentation needed to determine the eligibility of the following item(s): Item 21 - INTERIM SPIN***

We created Appeal #67559 and submitted it to USAC within the USAC guidelines (*Attachment B - USAC Appeal #67559 - Clay Co PL C2 FY2017*). A decision was received on January 31, 2018 (*Attachment C - RFCDL - Clay Co PL C2 FY2017*) with the following conflicting remarks:

- Post-Commitment Decision (FRN Level): **"APPROVED"**
- Post-Commitment Rationale (FRN Level): **"Your appeal has brought forward persuasive information that the funding request cited above should be approved for funding. FRN was modified to reflect SPIN 143050281."**
- Revised FRN Funding Decision: **"Denied"**
- Revised Commitment Amount: **\$0.00**

DISCUSSION

We believed that the FRN had been approved and that a glitch in EPC was mistakenly reporting the revised commitment amount as \$0. We requested that Client Services Bureau (CSB) create a case on 2/19/2018 with a description of "RFCDL - conflicting information". We have contacted CSB several times by EPC and by phone regarding this case. By phone they have assured us on a number of occasions that the case is in the correct department (but this information is not reflected in the EPC Case file), and on EPC we have rarely received a response. (*Attachment D - EPC Case #224006 - RFCDL - Conflicting Information*) Unfortunately, the status of the FRN funding commitment remains \$0 due to an EPC error. We acknowledge that our deadline to appeal the RFCDL has passed, but we request a waiver of the deadline due to the repeated verbal comments from CSB that the conflicting information was an EPC error and that we would receive a correction soon.

REQUESTED ACTION

We respectfully request that the originally requested funding commitment of \$6,029.81 be awarded and be accurately reflected in EPC.

We respectfully ask that the Commission grant a waiver of the deadline to file this appeal. We submitted an appeal to USAC and it was approved, but due to an EPC error ("glitch") it is still showing as denied. CSB told us it was a glitch in their system and that it was an EPC error that was going to be fixed. Believing that USAC was working in good faith to correct the error, and with no advice from CSB to proactively seek correction of their error through an FCC Appeal, we allowed our window to make this appeal to pass. We now believe this was a mistake. Months have passed without a correction and we find ourselves with no recourse but to bring this issue to the attention of the FCC.

It is our understanding the Commission may grant a waiver for good cause shown and if it is in the public interest. In comparison to situations where the applicant failed to adhere to "core program requirements" or misused funds, the Commission has stated that E-Rate funding should not be denied for procedural errors.^[1]

The Commission has further noted that decisions should be made with the "big picture" in mind: "[a]lthough deadlines are necessary for the efficient administration of the program, in these cases, the applicants have demonstrated that rigid adherence to such procedures does not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest."

There is no waste, fraud, or abuse. A waiver of the deadline to file an appeal would allow time for USAC to correct this EPC error. Denial of funding in this case would not further Congressional purpose for the program, the Commission's own program goals, or serve the public interest.

^[1] See, for example, *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.*, File Nos. SLD-523576, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007) (*Alpaugh Unified School District Order*); *See Request for Review of the Decision of the Universal Service Administrator by Academy of Math and Science, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487009, et al., CC Docket No. 026, Order, FCC 10-122 (released July 8, 2010) (*Academy of Math and Science Order*).

We also request any other procedural waivers necessary for Clay County Public Library to receive its approved funding, including but not limited to, an invoice deadline waiver for this FRN. For the reasons described above, it would be in the public interest to allow Clay County Public Library to receive their Category 2 E-Rate funding of \$6,029.81.

Thank you for your time and consideration. You are hereby authorized to contact our E-Rate Contact, Katy Smith, at 765-855-1612 or katy@adtecerate.com if there is any additional information necessary for your review of our appeal of the FRN Funding Decision and the Revised Commitment Amount.

Thank you,

A handwritten signature in black ink, appearing to read 'Lm Sh'.

Linda Sandlin, Library Director
Clay County Public Library

Attached:

Attachment A - PIA FRN#1799095586

Attachment B - USAC Appeal #67559 - Clay Co PL C2 FY2017

Attachment C - RFCDL - Clay Co PL C2 FY2017

Attachment D - EPC Case #224006 - RFCDL - Conflicting Information